

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
RICHARD A. SMITH,
d.b.a. HARBOR HEIGHTS APARTMENTS,

Appellant,

vs.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 299

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This matter, the appeal of a \$25.00 civil penalty for an alleged smoke emission violation of respondent's Regulation I, came before the Pollution Control Hearings Board (Walt Woodward, presiding officer) at a formal hearing held in the conference room of respondent's Seattle headquarters at 3:30 p.m., April 27, 1973.

Appellant appeared pro se; respondent through its counsel, Keith D. McGoffin. The proceeding was recorded by Leslee J. Livers, Seattle court reporter.

Witnesses were sworn and testified.

1 Exhibits were admitted.

2 On the basis of testimony heard and exhibits examined, the
3 Pollution Control Hearings Board prepared Proposed Findings of Fact,
4 Conclusions and Order which were submitted to the appellant and
5 respondent on June 9, 1973. Exceptions having been considered, the
6 Pollution Control Hearings Board makes and enters the following

7 FINDINGS OF FACT

8 I.

9 In the morning of January 19, 1973, from the Harbor Heights
10 Apartments, 86 Virginia Street, Seattle, King County, there was
11 emitted for at least six minutes black smoke equal to No. 3 on the
12 Ringelmann Scale.

13 II.

14 Section 9.03 of respondent's Regulation I makes it unlawful to
15 cause or allow the emission of an air contaminant darker in shade than
16 No. 2 on the Ringelmann Scale.

17 III.

18 As a result of the observed emission on January 19, 1973,
19 respondent served on appellant Notice of Violation No. 7222 and,
20 subsequently, Notice of Civil Penalty No. 666 in the amount of \$25.00.
21 That penalty is the subject of this appeal.

22 IV.

23 The boiler of the Harbor Heights Apartments had been given three
24 service calls in December, 1972, and on January 8, 1973, the boiler
25 and chimney had been cleaned. It is possible that this cleaning upset
26 the balance of firing in the boiler, causing it to malfunction.

27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 From these facts, the Pollution Control Hearings Board comes to
2 these

3 CONCLUSIONS

4 I.

5 Appellant was in violation of Section 9.03 of respondent's
6 Regulation I on January 19, 1973, as outlined in Notice of Violation
7 No. 7222.

8 II.

9 Notice of Civil Penalty No. 666, being one-fifth of the maximum
10 allowable amount which respondent may invoke for any one violation of
11 its Regulation I, is reasonable.

2 Therefore, the Pollution Control Hearings Board issues this

13 ORDER

14 The appeal is denied and Notice of Civil Penalty No. 666 in the
15 amount of \$25.00 is sustained.

16 DONE at Lacey, Washington this 7th day of August, 1973.

17 POLLUTION CONTROL HEARINGS BOARD

18 Walt Woodward
19 WALT WOODWARD, Chairman

20 W. A. Gissberg
21 W. A. GISSBERG, Member

22 James T. Sheehy
23 JAMES T. SHEEHY, Member

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